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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/574,949	02/28/2007	Yoshiyuki Sata	Q94347	7324	
23373 SUGHRUE MI	7590 03/11/201 ON, PLLC	EXAMINER			
	LVÁNIA AVENUE, N	ROGERS, MARTIN K			
WASHINGTO	N, DC 20037	ART UNIT	PAPER NUMBER		
			1747		
		NOTIFICATION DATE	DELIVERY MODE		
			03/11/2011	ELECTRONIC	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

sughrue@sughrue.com PPROCESSING@SUGHRUE.COM USPTO@SUGHRUE.COM

Advisory Action Before the Filing of an Appeal Brief

Application No.	Applicant(s)	
10/574,949	SATA, YOSHIYUKI	
Examiner	Art Unit	

The MALLING DATE of this communication appears on the cover sheet with the correspondence address THE REPLY FILED 21 February 2011 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. I. ☐ The reply was filled after a final rejection, but prior to or on the same day as filling a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replica: (1) an amandment, afficavit, or other evidence, (2) a Notice of Appeal (with appeal see) in compliance with 37 CFR 1.11s. (1) a Percention of the compliance with 37 CFR 1.11s. (1) a Percention of the compliance with 37 CFR 1.11s. (1) a Percention of the compliance with 37 CFR 1.11s. (1) and the prior of the reply expires on (1) the mailing date of this Advisory Action or (2) the date act forth in the final rejection. Examiner Note; It box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRST REPLY WAS FILED WITHIN TWO MONTHS O		1	MARTIN ROGERS	1747	
1. ☑ The reply was filled after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abendomment of this application, applicant must timely file one of the following replies: (1) an amendment, affidative, or other evidency which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 GFR 4.1.31: or (3) a Request for Continued Examination (RCE) in compliance with 37 GFR 1.114. The reply must be filed within one of the following replication: a) ☐ The period for reply expires © months from the mailing date of the final rejection. b) ☐ The period for reply expires © months from the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, with the statution period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, with the statution period for reply expires on: (1) the mailing date of the final rejection. Examiner Note: If box 1 is checked, check either box (a) or (b). CNLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS for THE FINAL REJECTION. See MFPE 706.67(f). Extensions of lime may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee number 50 CFR 1.17(a) is calculated from; (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; (c) as many reduce any example date for the propriate extension fee under 37 CFR 1.13(a) is calculated from; (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; (c) and the propriate extension fee under 37 CFR 1.13(a) is activated from; (1) the expiration date of the shortened statutory period for reply originally set in the final office action of the set of the final rejection, which is a set of the final rejecti		The MAILING DATE of this communication appea	rs on the cover sheet with the	correspondence add	ress
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b)	1. 🔯 Tho ap ap for	e reply was filed after a final rejection, but prior to or on the plication, applicant must timely file one of the following replication in condition for allowance; (2) a Notice of Appea Continued Examination (RCE) in compliance with 37 CF	ne same day as filing a Notice of plies: (1) an amendment, affidavi Il (with appeal fee) in compliance	Appeal. To avoid abar it, or other evidence, w with 37 CFR 41.31; or	hich places the (3) a Request
Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.13(a) and the appropriate extension fee nave been fleid is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked, Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). NOTICE OF APPEAL 2. The Notice of Appeal was filed on	a) 🔯	The period for reply expires <u>5</u> months from the mailing date of the period for reply expires on: (1) the mailing date of this Adv no event, however, will the statutory period for reply expire late Examiner Note: If box 1 is checked, check either box (a) or (b)	visory Action, or (2) the date set forth er than SIX MONTHS from the mailin). ONLY CHECK BOX (b) WHEN THE	g date of the final rejection	n.
 2. ☐ The Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a). AMENDMENTS 3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below); (b) ☐ They raise the issue of new matter (see NOTE below); (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims. NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)). 4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324). 5. ☐ Applicant's reply has overcome the following rejection(s):	have beel under 37 set forth i may redu	n filed is the date for purposes of determining the period of exter CFR 1.17(a) is calculated from: (1) the expiration date of the short (b) above, if checked. Any reply received by the Office later the ce any earned patent term adjustment. See 37 CFR 1.704(b).	nsion and the corresponding amount ortened statutory period for reply orig	of the fee. The appropria inally set in the final Offic	ate extension fee e action; or (2) as
(a)	2. Th filir No	e Notice of Appeal was filed on A brief in compliang the Notice of Appeal (37 CFR 41.37(a)), or any extensitice of Appeal has been filed, any reply must be filed with	sion thereof (37 CFR 41.37(e)), to	avoid dismissal of the	
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims. NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)). 4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324). 5. ☐ Applicant's reply has overcome the following rejection(s): 6. ☐ Newly proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s). 7. ☑ For purposes of appeal, the proposed amendment(s): a) ☑ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended. The status of the claim(s) is (or will be) as follows: Claim(s) allowed:	3. 🔯 TI (a) (b)	ne proposed amendment(s) filed after a final rejection, but they raise new issues that would require further cons They raise the issue of new matter (see NOTE below. They are not deemed to place the application in bette	sideration and/or search (see NO ⁻);	TE below);	
5. Applicant's reply has overcome the following rejection(s):	_	They present additional claims without canceling a co NOTE: <u>See Continuation Sheet</u> . (See 37 CFR 1.116	6 and 41.33(a)).		
non-allowable claim(s). For purposes of appeal, the proposed amendment(s): a) \(\text{ will not be entered, or b)} \) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended. The status of the claim(s) is (or will be) as follows: Claim(s) allowed: Claim(s) objected to: Claim(s) objected to: Claim(s) withdrawn from consideration: 1.2 and 5-10. AFFIDAVIT OR OTHER EVIDENCE B. \(\text{The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e). D. \(\text{The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1). The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached. REQUEST FOR RECONSIDERATION/OTHER 11. \(\text{ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet. 12. \(\text{ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \(\text{ MARTIN ROGERS/} \)	5. 🔲 A	oplicant's reply has overcome the following rejection(s): _			,
how the new or amended claims would be rejected is provided below or appended. The status of the claim(s) is (or will be) as follows: Claim(s) allowed: Claim(s) objected to: Claim(s) rejected: 3.4.11 and 12. Claim(s) withdrawn from consideration: 1.2 and 5-10. AFFIDAVIT OR OTHER EVIDENCE B. The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e). D. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1). The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached. REQUEST FOR RECONSIDERATION/OTHER The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet. The request for reconsideration Disclosure Statement(s). (PTO/SB/08) Paper No(s). (MARTIN ROGERS/	no	n-allowable claim(s).	· ·		-
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because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e). 9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1). 10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached. REQUEST FOR RECONSIDERATION/OTHER 11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet. 12. Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s)					
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Continuation of 3. NOTE: The newly-added limitation includes subject matter which was not previously present in the claims.

Continuation of 11. does NOT place the application in condition for allowance because: On page 9 of the remarks, Applicant argues that bead ejectors with the shape disclosed by Rex could not be used in the process of Ryo. The examiner notes that Applicant appears to be arguing the there can be no bodily incorporation of the specific ejectors of Rex into the invention of Ryo. In response to applicant's argument that the ejectors of Rex could not be used to eject the bead of Ryo, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See In re Keller, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

The remainder of Applicant's arguments concern a newly-added limitation which requires further search and consideration..